

Town of Los Altos Hills

City Council Regular Meeting Minutes

February 26, 2009
Council Chambers, 26379 Fremont Road

CALL TO ORDER, ROLL CALL, AND PLEDGE OF ALLEGIANCE

Mayor Mordo called the City Council Regular Meeting to order at 7:00 p.m. in the Council Chambers at Town Hall.

Present: Mayor Jean Mordo, Mayor Pro Tem Dean Warshawsky ,
Councilmember Breene Kerr, Councilmember Rich Larsen, and
Councilmember Ginger Summit
Absent: None
Staff: City Manager Carl Cahill, City Engineer/Public Works Director Richard
Chiu, Finance Director Nick Pegueros, Planning Director Debbie Pedro,
City Attorney Steve Mattas, and City Clerk Karen Jost

MOTION SECONDED AND CARRIED: Moved by Warshawsky, seconded by Larsen and passed unanimously to limit the length of time for public comments to two minutes.

1. APPOINTMENTS AND PRESENTATIONS

- A. Presentation of Donation for the Upper Arena Rehabilitation Project,
Linda Swan, Friends of Westwind

Diana Watters, former Treasurer and Friends of Westwind Board member addressed Council. She distributed a statement and requested that it be maintained as part of the meeting record. Watters provided a brief overview of the non-profit, all volunteer organization that had operated the horse boarding and riding business at Westwind Barn for the past 31 years. Friends' representatives were before Council to make a presentation to the Town of their remaining assets in the form of a check for \$12, 029.11 to be used for horse facilities at Westwind. She encouraged the City Council to make a long term-pledge to continue to board horses at the facility.

Linda Swan, former President of Friends of Westwind, thanked the Council for their commitment to Westwind Barn. Swan offered that if it had not been for the concerned citizens that had organized to preserve and run a horse operation at Westwind there might not be a barn standing today. She paid special tribute to Dan Alexander, Susie Holic and Sharon O'Malley for their many years of volunteer service to the Barn. Over the years the Friends of Westwind have built the paddocks and raised \$100,000 to build the lower arena. In addition to the residual funds that were being donated to the Town, the Friends were donating 20 water troughs at an approximate value of \$2,000 and a portable round pen purchased with member donations for approximately \$4,000.

In their closing remarks, both speakers encouraged the Council to continue their support for Westwind Community Barn, both as a boarding facility and as a community asset and link to the wonderful surrounding open space.

Council thanked the Friends for their donation and stewardship of Westwind Barn for the past 31 years.

- B. 2009 Earth Day Community Service Projects-Chris Vargas
 - Consideration of Request for Town Support

Chris Vargas, Templeton Place, thanked the City Council for the opportunity to present the action plan for Earth Day 2009. Vargas, a resident and member of the Standing Pathways Committee, had organized the Town's Earth Day path clean-up event for the past three years. In its inception year (2006), 180 students from Bullis Charter School had launched the program. By 2008, three schools and 300 students had picked up litter on the Town's pathways (Bullis Charter, Pinewood and St. Nicholas). Vargas reviewed the goals for 2009 that included an invitation to nine local schools to join in the activities with a target goal of 5 schools and 500 children involved. Proposed projects included: trail and pathways cleanup in both Los Altos Hills and Los Altos; public parks and recreation facilities cleanup in both communities; and, planting and cleanup projects on school campuses. Vargas offered that the vision of the Earth Day campaign was to "engage children in service projects that help them understand and appreciate the connection to their local community." Benefits of the previous events had included a cleaner Town with litter free trails and public recreation areas and proud excited children who recognized that they had given something back to their community. Parents of the student participants were pleased that their children could be engaged in a safe and rewarding community event with recognizable results.

The volunteer 2009 Earth Day committee consisted of residents Vargas, Courtney Corrigan, Scott Vanderlip and Anna Brunzell. They were charged with developing 35 projects and soliciting support from school principals. Vargas was before Council requesting financial and town staff support for the 2009 community event. In addition, he encouraged the Council to approve the creation and presentation of a "Mayor's Award" with recognition of all participating schools and special recognitions for outstanding service.

Council thanked Vargas and the Earth Day committee members for their commitment to the 2009 community event. The consensus of the Council was to authorize the City Manager to approve the required funding for supplies and recognition awards in an amount not-to-exceed \$2,500.

CONSENT CALENDAR

Items Removed: #3 (Finance Director)

MOTIONED SECONDED AND CARRIED: Moved by Summit, seconded by Larsen and passed unanimously to approve the remainder of the consent calendar, specifically:

2. Approval of Meeting Minutes: City Council Regular Meeting – February 12, 2009

4. Receive Comprehensive Annual Financial Report for Fiscal Year Ending June 30, 2008 (Staff: N. Pegueros)
5. Public Facilities Fee Program Annual Report – Fiscal Year Ending June 30, 2008 (Staff: N. Pegueros)
6. Award of Certificate of Commendation to William Melican Bowden, Eagle Scout, Boy Scouts of America, Troop 33
7. Award of Certificate of Commendation to Ross Robert Rutner, Eagle Scout, Boy Scouts of America, Troop 33
8. Acceptance of Quarterly Investment Report for the Period ending December 31, 2008 (Staff: N. Pegueros)
9. Adoption of Ordinance 514: Amendment to the Los Altos Hills Municipal Code to Adopt a Ministerial Review Process for Secondary Dwelling Units (Section 10-2.301) in Accordance with Government Code Section 65852.2 (Staff: D. Pedro)

Motion to Waive Further Reading

Motion to Adopt Ordinance

10. Notification of Fast Track Approval: Lands of Fa and Lee; 28263 Christopher's Lane (File #111-07-ZP-SD-GD) A Request for a Site Development Permit for a 1,949 square foot first and second story addition (maximum height: 23') with a 1,982 square foot basement and a 600 square foot swimming Pool. CEQA Review: Categorical Exemption per Section 15303(a) (Staff: N. Horvitz)
11. Notification of Fast Track Approval: Lands of March; 13101 La Paloma Road (File #237-08-ZP-SD) A Request for a Site Development Permit for a pool covered by a 1,253 square foot greenhouse, a 461 square foot second story addition to an existing workshop (Maximum height 24' 3") and a 100 square foot garden shed. CEQA Review: Categorical Exemption per Section 15303 (e) (Staff: D. Keyon)

Items Removed:

3. Review of Disbursements: January 1, 2009 – January 31, 2009 \$1,454,104.32

Finance Director Nick Pegueros advised Council that there was an error on the cover sheet of the disbursement listings. The item referencing Able Underground as the recipient of the payment was for sewer maintenance and improvements. It had incorrectly been identified as a payment for pathway maintenance.

MOTION SECONDED AND CARRIED: Moved by Warshawsky, seconded by Kerr and passed unanimously to approve Agenda Item #3 Disbursements as corrected.

PRESENTATIONS FROM THE FLOOR

Jim Abraham, Viscaino Place, spoke to his recent near collision with a car that ran the stop sign at the corner of Manuella and Fremont Roads. Abraham was walking in the intersection crosswalk at the time of the incident. He encouraged the City Council to direct the Sheriff to vigorously enforce traffic safety in Los Altos Hills. Abraham, a member of the Ad Hoc Undergrounding Committee, advised Council that the Town's Pilot Undergrounding Project had a single utility pole remaining and the aesthetic improvements to the Purissima site were remarkable. He expected the remaining pole to be removed when the Purissima Park project was completed. Abraham added that the joint antenna (Town's Emergency Communications Committee and Purissima Hills Water District) had been installed at the La Cresta water tank. He thanked the staff for their support during the project.

PUBLIC HEARINGS

12. LANDS OF ASKARINAM, 27198 Elena Road, (File #203-08-ZP-SD-GD); Appeal of the Planning Commission's Decision to Approve a Site Development Permit for a New Residence and Swimming Pool. CEQA Review: Categorical Exemption per Section 15303 (a) and (e) (Staff: D. Pedro)

Ex Parte Contacts Disclosure:

Councilmember Kerr: Visited the site, spoke with the applicant and talked with the neighbors. Kerr was accompanied by Planning Director Debbie Pedro.

Councilmember Larsen: Visited the site, spoke with the applicant and neighbors and visited their respective homes.

Mayor Mordo: Visited the site with Councilmember Summit. They were accompanied by Planning Director Debbie Pedro. Both Councilmembers spoke with the applicant and the adjacent neighbors.

Mayor Pro Tem Warshawsky: Visited the site, spoke with the applicant and spoke with one adjacent neighbor (Barchas).

Councilmember Summit: Visited the site, spoke with the applicant, spoke with the neighbors and drove around the neighborhood.

Planning Director Debbie Pedro introduced the item to Council. The item before Council was an appeal of the Planning Commission's decision to approve a site development permit for a new residence and swimming pool. The project was reviewed by the Planning Commission on December 4, 2008. The Commission voted unanimously to approve the new two story residence and swimming pool with supplementary conditions that were applied to mitigate the neighbors concerns' regarding views and privacy issues.

Pedro reviewed the Planning Commission's additional Conditions of Approval. They included a requirement to lower the roofline elevation of the new residence by 5 feet and the preservation of existing mature trees along the southeast property line.

Pedro provided an overview of the current project site. The existing single story home was built in 1955 prior to the Town's incorporation. The site had steep slopes in the front but the building pad was relatively flat. The current home encroached into the setback by 10 feet. The new proposed residence would be located outside the required setbacks. The applicant had proposed to remove five fruit trees with the remaining trees to be preserved.

Pedro proceeded with a PowerPoint presentation of the Site Development Permit application for Lands of Askarinam. The presentation included: an aerial of the neighborhood that showed the surrounding sites and residences of the project site; a site plan of the existing home, pool and accessory building; the proposed site plan; floor plan of the proposed new residence that included three balconies on the second floor; aerial pictures of the trees that neighbors had identified during the Planning Commission hearing as relevant to their privacy with requests for them to be preserved; northwest (side) and southwest (side) elevations of the proposed new residence with the balconies and windows called out to clarify the areas of concern identified by the neighbors during the Planning Commission hearing; photos of the view from the second story window of Lands of Belani (adjacent neighbor) and view from roof of existing house looking towards Lands of Belani; and the applicants proposed preliminary landscape screening plan that was reviewed at the PC hearing that included the installation of six- 24" box olive trees along the north property line.

Pedro explained that in accordance with the Town's Municipal Code, the applicant had appealed the Planning Commission's decision. The applicant's appeal was based on the following reasons: the proposed plan complied with the Town's Zoning ordinances, the privacy concerns by the adjacent neighbor (Belani family-12101 Dawn Lane) could be mitigated by additional screen trees; lowering the residence would require major site grading that was not needed with the proposed application; and, the Commission's requirement to preserve the trees along the southeast property line to mitigate view impacts for the Barchas (27142 Elena Road) would cause the three car garage to be at a higher elevation than the rest of the residence which would impact the house's floor plan and desirability. Mr. Askarinam's (Askari) appeal letter was included in the staff report before Council.

Pedro clarified that the applicant had agreed with the Planning Commission's requirement to preserve the identified trees and had agreed to jog the new proposed fence-line around the trees to preserve them.

Mr. Steve Askarinam, applicant, addressed Council. He thanked them for visiting the project site and reviewing his application. He noted that he was hopeful that the Council would consider his project on its own merits and disregard the Planning Commission's ruling. Askarinam clarified that he had not been properly prepared for the previous hearing. Both he and his project architect had believed that because the project met all of the Town's codes and rules, and had been recommended for approval by the Planning Department, they had a good change of gaining approval of the project. Askarinam advised Council that the presentation he would be making at the Council meeting was new and had not been given at the prior hearing.

Askarinam proceeded with his presentation that included a 3-D view of his proposal that had been generated by taking the architect's drawings and overlaying a 3-D structure. Askarinam commented that the view was an accurate representation of his proposal. He clarified that half of the structure was a single story height and identified the one corner that was "touching" the setback boundary line.

Askarinam reviewed the proposed balconies. He displayed photos that had been taken from the roof of the existing house that were representative of the view from the balcony of bedroom #5 that faced the Belani residence. Askarinam said that the tripod to take the pictures was set up at 6 feet to capture the true view from the balconies. He displayed a panorama view from the roof and suggested that a tree strategically located by the existing oleanders could mitigate any privacy concerns. Askarinam added that he was purposing additional screening trees for the site and his landscape architect would review his plan with Council following his presentation.

Askarinam commented that he and the project architect had determined that the home could be lowered by 18". Any additional height modification would require significant grading to the site and potentially create serious drainage issues.

Council asked for clarification on the photos that had been presented by Askarinam. Askarinam explained that they were taken at a 6 feet height from the roof to ensure that they were a good representation of the views.

Askarinam stated that he had met with his neighbors, the Barchas, on numerous occasions and believed their concerns had been resolved. He added that he had contacted the Belanis and was willing to work with them on the outstanding issues and had been hopeful that the issues could be resolved on a neighborhood level. In closing, Askarinam offered that his project would be a benefit to the neighborhood, appreciate the property values and bring sewer to Elena Road.

Councilmember Kerr requested clarification as to the properties classification as a ridgeline property. Planning Director Debbie Pedro explained that there was no definition of a "ridgeline" and in reviewing the topography and elevation of the site, the home did not sit on an absolute ridgeline. Pedro shared a slide that showed the subject property was not at the highest elevation in the area.

Mark Godby, Project Architect, addressed Council. He concurred with the statement of the applicant that they had not been properly prepared for the Planning Commission hearing in December. Godby stated that he had not encountered much opposition to his designs during his twenty year career and had been sensitive with this design for the site. Godby spoke to the Condition of Approval that had been imposed by the Planning Commission to lower the residence by 5 feet. He had not been able to respond to the condition that night but was immediately aware that the condition was not feasible especially given the sensitivity to saving the existing trees. He had reviewed the Planning Commission's condition with the project's civil engineer and they had reached a conclusion that 1½ feet of grading was the maximum that could be done without scaring the lot and removing additional trees. Additionally, to further grade the site would place the elevation below the neighbors' properties creating a bowl effect that would be problematic for drainage.

Mayor Mordo queried if moving the home towards the street and further north had been considered to meet the required height. Godby explained that it was a difficult lot and the fire department's requirements and existing large heritage oak trees and steep slopes on the front of the lot had been key factors in siting the proposed residence. He suggested that increased setbacks from the front of the lot helped the aesthetics of the residence and made it less imposing.

Thomas Klope, Landscape Architect, addressed Council. He had been engaged after the Planning Commission determination. Klope had been asked by the applicant to review the project and provide landscaping options to address some of the concerns. He shared elevations of the project and explained that they were proposing three trees of approximately 25 feet tall to help mitigate the neighbors' privacy concerns. Klope reviewed the shadows that currently cross the neighbors' property from the existing oleanders and offered that the proposed trees would not have any additional shadow impact to the neighbors' property. Klope reviewed the potential "off haul" from the site. He noted that the initial proposal's cut and fill was balanced and would not have required any off- haul from the site. By lowering the project 1½ feet, approximately 900 cubic yards of cut would be generated which would be the exportation off the property of approximately 780 cubic feet of soil or 78 truckloads of soil. If the residence was lowered the full required 5 feet from the original proposal, approximately 2790 cubic yards of soil would be exported from the site and 130 linear feet of 5'-6' foot retaining walls along the existing redwoods would be needed.

Klope reviewed the proposed planting site with Council. The plan called out the location of the three trees that would grow to 25 feet. The trees would be 16 feet tall when they were planted. Additionally, the plan included new evergreen drought tolerant shrubs.

OPENED PUBLIC HEARING

Abhishek Belani, adjacent neighbor, Dawn Lane, addressed Council. Belani opposed the proposed project and believed that the site clearly qualified as a ridgeline property and warranted a single story residence. Belani suggested that the Planning Commission's requirement to drop the roofline by 5 feet was a good compromise. He noted that they had not suggested that the site be graded to meet the requirement but the roofline should be modified. He shared pictures with Council that he believed illustrated his concerns on the impact of the proposal on the sunlight on his property and privacy. Belani added that all of the adjacent neighbors were present and they all opposed the project.

Kay Barchas, adjacent neighbor, Elena Road addressed Council. Her property shared a common boundary of 350 feet with the applicant's site. She has resided at her home for 18 years. Barchas noted that she had not met the applicant until his design was completed and the story poles had been installed. Barchas spoke to her original concerns that had been addressed by the Planning Commission's additional Conditions of Approval imposed at their hearing. She requested that an approved arborist be required to identify the drip lines of her boundary trees. Barchas noted that Askarinam had agreed to accept the Planning Commission's imposed conditions that addressed her concerns via an email that was included in the Council's packet. Barchas commented that this was a

major step if Mr. Askarinam agreed to modify his plans to reflect the Planning Commission's conditions and if there was robust enforcement by the Town.

Mark Barchas, adjacent neighbor, Elena Road addressed Council. He opposed the project and offered that the proposed residence was intrusive and overwhelmed the neighborhood and believed the site qualified as a hilltop- ridgeline and highly visible lot. Barchas suggested that the site warranted a single story home. However, if a two story home were to be approved for the site, he supported the height restriction that had been imposed by the Planning Commission. He suggested that a redesign of the residence could address many of the neighbors concerns and illuminate the need for additional grading that could damage their existing trees.

Carrie Synder, resident, addressed Council. Synder noted that she had grown up in the house that was directly below the subject property. Her family still resided at the Adonna Court residence. She opposed the project and expressed her disappointment that the large expansive home had been proposed for the lovely site and had been approved with the only mandate that the roof line be lowered by five feet. Synder offered that the proposed home was an invasion of her family's privacy with the structure looking directly into her family's backyard, bedrooms and bathrooms. She shared photos with Council of the story poles of the proposed project as seen from different rooms in her house. Synder encouraged the Council to uphold the Planning Commission's ruling to lower the roof line by 5 feet and if possible, to further stipulate that the residence be one story to preserve the natural beauty of the neighborhood.

Zaydoon Jawadi, neighbor, Dawn Lane addressed Council. He opposed the project and believed the home was offensive and unacceptable for the neighborhood. Jawadi referenced his correspondence that had been included in the Council's packet. He encouraged the Council to deny the project.

Carl Snyder, neighbor, Adonna Court, addressed Council. He opposed the project. Synder commented that the proposed residence could be seen from all of the rooms in his home and the structure, given its height and placement on the lot, looked directly into his home and invaded his privacy. Synder commented that the views of the valley from the site were fine did not require a two story residence. He had not been contacted by Askarinam regarding the design of the home and had only been contacted once by the applicant to solicit his participation in the project's sewer line. Synder suggested that the photographs that had been used by the applicant during his presentation were not valid and inaccurate. He requested that Council support the Planning Commission's decision (compromise) or require that the project to be single story.

Vinita Belani, neighbor, Dawn Lane addressed Council. She stated that she was disappointed in the comments made by Mr. Askarinam that they had not been willing to negotiate with him and offered that her interactions with the applicant had been unpleasant. She shared a story regarding Mr. Askarinam's late visit to her home. Belani opposed the project and believed the new construction would depreciate property values in the neighborhood, not appreciate the values of the area as stated by Mr. Askarinam.

Ashok Belani, Dawn Lane, addressed Council. He explained that he was the beneficiary of a Trust for his parents' residence and he loved the Town and considered it his home.

Belani suggested that his parents had chosen this as their home for generations to come. He opposed the project but could support the Planning Commission's compromises for the project.

Resident, Dawn Lane, addressed Council. He noted that he was a developer and built primarily single story homes. He encouraged the applicant to consider building a single story home and offered that it would resolve many of the privacy issues expressed by the neighborhood.

Eric Clow, Central Drive, Planning Commissioner, spoke to several of the applicant's statements that had been made during his presentation. He offered that the applicant should have been aware of the neighbors' dissatisfaction with the project given that it was initially scheduled for a Fast Track hearing and rescheduled for a public hearing before the Commission. Clow questioned the reported height of the ceilings and offered that the residence could be lowered by lowering the ceilings. Clow noted that the Planning Commission did not base their findings on the property being considered a ridgeline site but referenced the ordinance that the property had "extraordinary topography".

Jim Abraham, Viscaino Road, Planning Commissioner, questioned the accuracy of the applicant's photographs depicting the view from the westerly facing balcony. He doubted that the roof of the current residence was the appropriate height for a representation of the new residence's elevation. Abraham in response to a Councilmember's question, offered that there was an issue with the original story poles but that the current placement was correct or very close to being correct. Abraham added that the Commission had been very diligent in their review of the project.

Contractor/Developer, spoke in favor of the application. He noted that he was currently building a new home on Gigli Court and believed it was unfair for the neighbors to impose their "taste" on builders. It was important that the new home meet the Town's requirements and suggested that the privacy issues could be addressed with the proposed foliage. He suggested that a single story home would cover more of the lot and create more run-off than the proposed residence. He added that he would be connecting to the new sewer line being constructed by the applicant.

Sandy Humphries, resident, Fremont Road, expressed her opposition to the project and encouraged the Council to listen to the neighbors. She offered that the proposed residence was not compatible with the Town.

Louise Askarinam, applicant, addressed Council. She noted that she respected the privacy issues that had been raised by the neighbors of the project and commented that they were amenable to listening to their concerns and comprising. She was hopeful that the Council would also listen to their views (Askarinam). She believed the new home was a good project for both the neighborhood and Los Altos Hills. It was an energy efficient home and would bring a new sewer line on Elena as part of the proposed project. Mrs. Askarinam added that the neighbors' tastes and opinions should not be imposed on their family. She clarified the comments of Mrs. Belani regarding her husband's visit to their home, noting that as an observance of their religion they do not participate in business after 5pm on Friday evenings.

Bob Johnson, neighbor, Adonna Court addressed Council. Former Mayor and Councilmember Johnson acknowledged that he had been one of the founders of the Fast Track process for project review and was disappointed to learn that the Askarinam project had been referred to the Planning Commission for review. He was dismayed by all of the animosity that had been shown Mr. Askarinam. Johnson suggested that the substantive difficulties between the Belanis and the developer should be resolved by an amenable agreement between the neighbors. He offered that after visiting the site and looking at the neighbor's property from the roof of the existing house on the Askarinam property, a single well-placed tree would solve the privacy concerns that had been expressed. Johnson added that this was not a ridgeline property. He was hopeful that the Council would uphold the appeal of Mr. Askarinam.

CLOSED PUBLIC HEARING

Council Discussion:

Council discussion ensued. Councilmember Kerr offered that he believed the Planning Commission was more qualified and familiar with the issues to review the project. He supported the Planning Commission's decision and noted that he would vote to uphold their ruling. Kerr added that lowering the roofline could be done by lowering the ceiling height and did not necessarily require grading. Kerr suggested that he might consider requiring the applicant to remove one of the balconies.

Councilmember Larsen noted that he appreciated all of the time that had been spent on the application that was before Council. That included the review by the Planning Commission, City Council, Town staff, applicant and neighbors. He noted that the Town's standards were objective and they had all been met. Larsen referenced the Municipal Code section that spoke to "exceptional or extraordinary circumstances applicable to the subject property including: size, shape, topography, location or surroundings, the proposed development would be injurious to adjacent property and/or the general public" and had been the basis of the Commission's findings. For this reason, he supported referring the project back to the Planning Commission. Larsen acknowledged the applicant's willingness to work with the neighbors and believed that an amenable solution could be reached.

Mayor Pro Tem Warshawsky commented that during his 6 years on the City Council, very few projects have been forwarded to them for their review. He offered that most projects were resolved at the neighborhood level given that very few people find it desirous to have politicians designing their homes. Warshawsky encouraged the neighbors to get together to resolve their issues and suggested that consideration be given to screening landscaping and possible changes in the balconies to address the Belanis' privacy concerns given that they had they were the most impacted by the project.

Councilmember Summit expressed her concern that the new residence did not seem to fit the lot and suggested that a different orientation on the site might have been better. Summit had viewed the adjacent neighbors' properties from the roof of the existing home on the Askarinam property and noted that she could see into their windows. Summit added that from the scope of the proposed balcony she would be able to see all of the properties on Dawn Lane and Adonna Court. She offered that the balcony was offensive

to the neighbors and would recommend its elimination from the design. Additionally, she would reduce the size of the windows that faced the Belanis' home. Summit noted that she had attended the Planning Commission hearing and listened to the comments made by the Commissioners during their thoughtful deliberation and respected their decision. Summit acknowledged that she would vote to uphold the Planning Commission's recommendations.

Mayor Mordo commented that this was a difficult situation. He was in concurrence with Summit, given the shape of the lot and topography it possibly should not have been designed the way it was but that the applicant was well into the process and had invested time and money developing his house. Mordo noted that neither the Council nor the Planning Commission could nor should re-design an applicant's home and their decisions must be guided by the Municipal Code. The only viable solution was to return the project to the Planning Commission. This would afford the applicant an opportunity to work out a solution with the staff and neighbors and return to the Planning Commission with the revised proposal.

City Attorney Steve Mattas reviewed the options before Council. If the Council were to deny the appeal, the Planning Commission's approval was still applicable and the applicant could proceed with the project by satisfying all of the Conditions of Approval that had been imposed on the Site Development Permit. However, if the applicant agreed on the record to continue the item, and subsequently a majority of the Council voted to refer the project back to the Planning Commission, the item would be continued for further consideration by the Commission. Mattas advised Council that they should garner the applicant's interest in continuing the item prior to making that determination.

Steven Askarinam, applicant, addressed Council. He offered that he had made the following concessions in good faith to show his interest in moving forward with his project: agreed to lower the residence by 1½ feet via grading and 1 foot by lowering the elevation, and agreed to remove the balcony and replace it with two small windows. Askarinam noted that he had met the Planning Commission's condition to lower the home by 5 feet half way with his proposal.

Applicant Steven Askarinam stated on the record that he agreed to the continuation and referral of the project back to the Planning Commission.

MOTION SECONDED AND CARRIED: Moved by Larsen, seconded by Summit and passed unanimously to continue final action on the appeal and to refer the matter back to the Planning Commission. Upon the Planning Commission making a determination and if no further appeal was made by the applicant, or residents, then the matter would be complete and the Council would accept the Planning Commission's action. However, if there was an appeal, the City Council understood that the project could return to the City Council for final action.

COUNCIL RECESSED AT 9:05 P.M.

COUNCIL RECONVENED TO OPEN SESSION AT 9:20 P.M.

City Attorney Steve Mattas, for the purpose of providing clear direction to the Planning Commission regarding their upcoming review of the Askarinam project, summarized the

Council's discussion of the agenda item. He noted that the Council's discussion had focused primarily on the additional Conditions of Approval that had been imposed by the Commission during their December 2008 review of the Site Development permit request. These Conditions were in addition to the staff recommended conditions. They were included in the agenda item's staff report as Conditions of Approval #7-12. Planning Director Debbie Pedro reviewed the conditions with Council. It was clarified that Condition of Approval #7 regarding lowering the elevation of the roof-line by 5 feet was the condition that was to be addressed during the Commission's review of the continued item. The Council was in concurrence with the other imposed conditions.

It was noted that the neighbors and Council retained their right to appeal the Planning Commission's approval of application.

UNFINISHED BUSINESS

13. Update on Town Goals

- Emergency Preparedness

No report given.

- Environmental Initiatives

Councilmember Kerr reported that the Environmental Initiatives Committee was in the process of finalizing policies regarding swimming pools. The majority of the recommended technical guidelines related to the appropriate size of a pool pump in relationship to the size of the swimming pool. The proposed technical check sheet would be included in the building permit application and would verify that the size of the pump chosen was based on the appropriate calculations.

- Parks and Recreation Assets and Programs

City Engineer/Public Works Director Richard Chiu reported that the Little League fields project (Purissima Park) was nearing completion. Due to the recent rains and shade on the site, Opening Day for the Little League and the dedication ceremony for the Park have been moved out to April. Chiu would advise Council when the events were scheduled. The Parks' restroom building was currently under construction.

- Sewers and Infrastructure

13A Request for Authorization to Solicit Requests for Proposals from Qualified Consultants to Secure Local Project Funding

City Manager Carl Cahill introduced the item to Council. The item before Council was a request for authorization to investigate qualified firms to provide the necessary advocacy and guidance in securing federal and state funds from the stimulus programs for the Town's infrastructure projects. Proposals would be returned to Council for their approval. Public works projects that might benefit from the proposed effort included the retrofitting of Town facilities at risk during an earthquake, slide mitigation efforts on Town roads and sewer projects.

Council discussion ensued. There was a Council consensus that staff should solicit proposals on a performance success based fee similar to the Agreement that the Town entered into with consultant Greg Sellars to facilitate the passage of AB 117.

MOTION SECONDED AND CARRIED: Moved by Larsen, seconded by Warshawsky and passed unanimously to authorize the City Manager to solicit Requests for Proposals from qualified consultants based on a success based fee to secure local project funding.

14. Consideration of Proposed Amendment to the Resolution Establishing Standing Committees (Resolution No. 1-09) to Add the Water Conservation Committee and Appointment of Councilmember Liaison

Council discussed the charter of the newly formed standing committee. It was clarified that the primary charge of the Committee was water conservation policy development. The charter could be amended in the future if warranted.

MOTION SECONDED AND CARRIED: Moved by Larsen, seconded by Warshawsky and passed unanimously to approve the amendment establishing the new Standing Water Conservation Committee and adopt Resolution No. 12-09.

MOTION SECONDED AND CARRIED: Moved by Kerr, seconded by Warshawsky and passed unanimously to appoint Mayor Mordo to serve as the Council Liaison to the new Water Conservation Committee.

NEW BUSINESS

15. Collection of Sewer Backcharges (Staff: R. Chiu)

City Engineer/Public Works Director Richard Chiu introduced the item to Council. The item before Council for their consideration was a recommendation from staff to standardize sewer backcharges. Staff had identified 64 properties that owe sewer backcharges for connections. Of those properties, 41 owed past annual usage fees because the property was not added to the tax roll even though the sewer connection was permitted. The remaining 23 properties were connected to the sewer system without benefit of Town approval or permit and in addition to the past annual usage fees, owed the Town sewer connection and administration fees. Notices had been sent to 49 properties requesting payment for all outstanding charges, and 22 had made payments to the Town.

Chiu reviewed the proposed "Sewer Backcharge Policy" with Council. If adopted by Council, the policy would formalize a uniform method of calculating sewer backcharges and give property owners two repayment options. The two options for calculating the repayment included: 1) the payment of all past yearly usage fees and the connection fee in place at the time of connection; or 2) pay the last three years of usage fees and the current connection fee. In addition to the repayment formula, Chiu noted that Council might want to consider an amnesty period or incentive for early payment. An example would be a reduction by 10% of the fees if paid within 45 days of the notice.

Council had before them a spreadsheet of the 64 properties that included the connection type (permitted or non-permitted), date of connection if applicable, connection fee based on year backcharge, administration fee, years back charges and calculations of the amount owed using option 1 and option 2 formulas.

OPENED PUBLIC COMMENT

Jim Abraham, resident, commented that he had difficulty with those people that connected to the sewer illegally and didn't understand how they could connect and not have a clear understanding of the requirements to obtain a permit. He likened their illegal connection to stealing and suggested that they should be required to pay all charges and the full fees.

CLOSED PUBLIC COMMENT

Council discussion ensued. Councilmember Summit noted that it had been brought to her attention that some notified residents were not aware that their home was illegally connected to the sewer when they purchased their property.

Chiu concurred that residents with the situation cited by Summit had been recipients of the notices. Staff would research the County tax rolls for the property transfer date and they would not be charged back to the previous property owner.

Council discussed the possible benefit of offering early pay incentives/discounts for the outstanding fees and the ability of staff to collect the charges without having to pursue legal recourse. Councilmember Larsen noted that he did not support prepay discounts for those property owners that had connected illegally. There was a consensus that the current connection fee be applied to the charges.

For clarification, City Attorney Steve Mattas explained that staff's recommendations had only included three years of usage fees for the purpose of the calculations citing potential statute of limitations issues that could be a factor. City Manager Cahill noted that staff would like to prosecute those with illegal hookups to the maximum extent permissible by law, but experience dictated that with the amount of work currently in the City Engineer's department, this could be drawn out for an extensive time period. He requested that Council consider adopting the proposed policy and that staff be given flexibility to close out the accounts. To date, not all of the property owners identified on the list had been notified. Cahill offered that the issue could be given to a collection agency, however, that would have certain associated costs.

Mattas summarized the Council discussion. The Policy as proposed gave the option to the property owner to choose which formula option to use for payment of the outstanding fees. Under consideration was an amendment of the policy to remove the option from the property owner to determine which formula they wished to apply to the charges and give the discretion to the City Manager with the understanding that he apply the policy in a fair and equitable manner. Additionally, the City Manager would have the authority to use the lower of the options if the payment were made within a time frame determined by the City Manager. The City Manager would be authorized to grant an early payment

discount for those property owners that had connected with a permit but had not been added to the tax rolls and owed the back usage fees.

MOTION SECONDED AND FAILED: Moved by Larsen that staff be authorized to determine which payment formula be used to calculate the charges and additionally determine the time frame for the payment. The motion did not include any discount for early payment. Motion failed due to the lack of a second.

MOTION SECONDED AND CARRIED: Moved by Kerr, seconded by Mordo and passed unanimously to approve a “Sewer Backcharge Policy” that authorized the City Manager to determine which payment formula option would be used to calculate the charges for illegal connections (without permits) if the payments were paid within a certain number of days as determined by the City Manager. Property owners that only owed usage fees could be offered an early payment discount of up to 10% if paid within a certain number of days as determined by the City Manager.

16. Second Unit Survey and Public Comment Form for Housing Element General Plan
(Staff: D. Pedro)

Planning Director Debbie Pedro advised Council that the Housing Element Subcommittee comprised of Mayor Mordo, Councilmember Summit, and residents Joan Sherlock and Dot Schreiner and staff had met and begun the process guided by State Law of updating the Housing Element. Council had before them drafts of the “Public Comment Form” and “Secondary Unit Survey” that were proposed to be mailed to all property owners within the Town. Pedro noted that the results of the 2002 Town-wide Secondary Survey had been used to validate the Town’s use of secondary dwellings as an effective affordable housing program.

MOTION SECONDED AND CARRIED: Moved by Summit, seconded by Warshawsky and passed unanimously to approve the distribution of the “Public Comment Form” and “Secondary Unit Survey” as a town-wide mailing.

PLANNING COMMISSION REPORT

17. Notification of Planning Commission Approvals:

A. LANDS OF EVERSHINE III:13310 La Paloma Road (File #159-07-ZP-SD); A Request for a Site Development Permit for Landscape Screening Plan for a New Residence, Swimming Pool, Maintenance Building, Tennis Court and Tennis Pavilion. CEQA review-Categorical Exemption 15304(b) (Staff: N. Horvitz)
(Planning Commission Vote: 4-1 (Collins-No))

B. LANDS OF LOS ALTOS HOMES: 26462 Purissima Road (File#295-08-ZP-SD); A Request for a Site Development Permit for Landscape Screening Plan for a New Residence, Swimming Pool, Secondary Dwelling Unit and Barn. CEQA review-Categorical Exemption Section 15304 (b) (Staff: N. Horvitz)
(Planning Commission Vote: 5-0 (unanimous))

Planning Director Debbie Pedro reviewed the Planning Commission report with Council. In addition to the two items before Council, the Commission had continued a request for a site development permit for a new residence on Edgerton Court to their meeting in March.

REPORTS FROM COMMITTEES, SUB-COMMITTEES, AND COUNCILMEMBERS ON OUTSIDE AGENCIES

18. Request for Expenditures – Roger Spreen, Chair Standing Open Space Committee

Council reviewed the request that had been submitted by the Open Space Committee for funds related to Committee sponsored events. Total expenditure: \$3,350. The requests included: \$1,850. for a town-wide postcard mailing to announce the SOD educational event to be held on May 9 at Town Hall; \$300 for the next wildlife educational series; and, \$1200. for the Earth Day celebration.

MOTION SECONDED AND CARRIED: Moved by Kerr, seconded by Warshawsky and passed unanimously to approve the request for funding and to authorize the town-wide mailing.

Councilmember Kerr requested an update from Open Space Committee member Nancy Couperus on the status of the Town's O'Keefe property. Couperus reported that a preliminary report of the site had been prepared by a consultant last year. The expectation was that the creek restoration could be very costly. City Manager Cahill advised Council that a meeting had been tentatively scheduled with the Santa Clara Valley Water District to discuss O'Keefe and he would report back to Council. Councilmember Kerr noted the importance of being proactive and the advantages of developing a project plan and pre-engineering if the Town was considering moving forward on grant applications for the site.

STAFF REPORTS

City Manager
City Attorney
City Clerk

No reports were given.

COUNCIL INITIATED ITEMS

19. Discussion of Support from Los Altos Hills for Financing of New Recreation Center in Los Altos – Mayor Mordo

Mayor Mordo introduced the item to Council. Mordo reviewed the new civic center project that was currently under design and review by the City of Los Altos. Estimates for the multi-phased project were close to \$163 million with the project expected to require 10-15 years for completion. Mordo offered that many of the components of the project would be of little interest to Town residents. However, the new proposed recreation facility that included youth and senior centers and conference facilities

warranted discussion. Estimates for the rebuild of the Hillview recreation center were \$25 million. Mordo explained that he had been asked by a Los Altos City Councilmember to assess the interest of the Town to conceptually participate in financing the project. One possible financing option was the formation of a JPA between the two cities similar to the Los Altos/Los Altos Hills library JPA and a ballot approved bond (parcel tax measure). He suggested that if there was a concurrence amongst the Council to support the investigation of assisting the City of Los Altos with the project, he would advise their Council. If the City of Los Altos determined that a partnership was of value, the Town would follow-up with a survey of Town residents to gauge residents' interest.

Council discussion ensued. Mayor Pro Tem Warshawsky expressed his concern with the associated costs for investigating the "partnership" of a project that might not be brought to fruition. He noted the costs of the survey/poll and ballot measure. Councilmember Summit supported the proposal and suggested that discussions of the proposal were warranted and a new recreation facility could be beneficial for residents. Councilmembers Larsen and Kerr supported further exploration of the proposal.

MOTION SECONDED AND CARRIED: Moved by Summit, seconded by Kerr and passed by a 4-1 voice vote (Warshawsky-no) to authorize the Mayor to send a letter to the City of Los Altos City Council expressing their interest in a discussion in principle of a potential partnership for a jointly funded recreation center via a JPA or parcel tax (equal tax per parcel) as a financing vehicle for the proposed new recreation facility.

ADJOURNMENT

There being no further business, the City Council meeting was adjourned by consensus of the Council at 10:40 p.m.

Respectfully submitted,

Karen Jost
City Clerk

The minutes of the February 26, 2009 Regular City Council meeting were approved as presented at the March 26, 2009 Regular City Council meeting.